

INFO



ACQUISITION AND
TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

March 18, 1996



DP (DAR)

In reply refer to
DFARS Case: 95-D308
D. L., 96-004

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN (RD&A) / ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR, PROCUREMENT POLICY, ASA (RD&A) / SARD-PP
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS
AGENCY

SUBJECT: Ball and Roller Bearings

We have amended the Defense Federal **Acquisition** Regulation Supplement (DFARS) to implement Section 8099 of the Fiscal Year 1996 Defense Appropriations Act (Pub. L. 104-61) and Section 806, paragraphs (b) and (d), of the Fiscal Year 1996 Defense Authorization Act (Pub. L. 104-106), which extend the statutory restrictions on the acquisition of nondomestic ball and roller bearings through the year 2000, but reduce the exceptions to the restriction and limit waiver authority when Fiscal Year 1996 funds are used.

The attached interim **DFARS** rule is effective immediately and will be included in a future Defense Acquisition Circular.

Eleanor R. Spector
Director, Defense Procurement

Attachment

cc: **DSMC, Ft. Belvoir**

ENCLOSURE(1)



DFARS CASE **95-D308**, BALL AND ROLLER BEARINGS
INTERIM RULE

SUBPART 225.70-AUTHORIZATION ACTS, APPROPRIATIONS **ACTS**, AND OTHER
STATUTORY **RESTRICTIONS** ON FOREIGN PURCHASES

* * * * *

225.7001 **Definitions.**

As used in this subpart—

(a) [‘ ‘Bearing components’ ’ is defined in the clause at 252.225-7016, Restriction on Acquisition of Ball and **Roller Bearings**.

(b)] ‘ ‘Hand or measuring tools’ ’ means those tools listed in Federal supply classifications 51 and 52, respectively.

(b[c]) ‘ ‘Possessions,’ ’ as used in the phrase ‘ ‘United States or its possessions,’ ’ includes Puerto Rico.

(e[d]) ‘ ‘Specialty metals’ ’ is defined in the clause at 252.225-7014, Preference for Domestic Specialty Metals.

* * * * *

225.7019 **Restriction[s]** on ~~antifriction~~**[ball]** and roller] bearings.

225.7019-1 **Restriction[s].**

[(a)] In accordance with 10 U.S.C. 2534, through fiscal year ~~1995~~**[2000]**, do not acquire ~~antifriction~~**[ball]** and roller] bearings or bearing components which **are** not manufactured in the United States or Canada.

[(b)] **In** accordance **with** Section 8099 of Pub. L. 104-61, **do not use fiscal year 1996 funds to acquire ball and roller bearings other than those produced by a domestic source and of domestic origin, i.e., bearings and bearing components manufactured in the United States or Canada.**]

225.7019-2 Exceptions.

[(a)] The **restriction** in 225.7019-1**[(a)]** does not apply to—

(a[1]) Acquisitions [at or] below the **simplified** acquisition threshold, unless ball or roller bearings or bearing components are the end items being purchased];

(b[2]) Purchases of commercial items **incorporating** ~~antifriction~~**[ball]** or roller] bearings;

(e[3]) Miniature and instrument ball bearings restricted under 225.71;

(d[4]) Items acquired overseas for use overseas; or

(e[5]) Antifriction**[Ball]** and roller] bearings or bearing components or items containing bearings for use in a cooperative **or co-production** project under an international agreement.

[(b)] The **restriction** in 225.7019-1(b) **does not apply to the acquisition of commercial items incorporating ball order bearings (see 212.503(a)(xi) and 212.504(a)(xxvi)).**]

225.7019-3 Waiver.

[(a)] The head of the contracting activity may waive the restriction in 225.7019-1[(a)]—

(a[1]) Upon execution of a determination and findings that—

(4[i]) No domestic (U.S. or Canadian) bearing manufacturer meets the requirement;

(2[ii]) It is not in the best interests of the United States to qualify a domestic bearing to replace a qualified nondomestic bearing. This determination must be based on a finding that the qualification of a domestically manufactured bearing would cause unreasonable costs or delay. A finding that a cost is unreasonable should take into consideration DoD policy to assist the domestic industrial mobilization base. Contracts should be awarded to domestic bearing manufacturers to increase their capability to reinvest and become more competitive;

(3[iii]) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country;

(4[iv]) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country;

(5[v]) Application of the restriction would result in the existence of only one source for the item in the United States or Canada;

(6[vi]) Application of the restriction is not in the national security interests of the United States; or

(7[vii]) Application of the restriction would adversely affect a U.S. company.

(b[2]) For multiyear contracts or contracts exceeding 12 months, only if—

(4[i]) The head of the contracting activity executes a determination and findings in accordance with paragraph (a) of this subsection;

(2[ii]) The contractor submits a written plan for transitioning from the use of nondomestic to domestically manufactured bearings;

(3[iii]) The plan—

(i[A]) States whether a domestically manufactured bearing can be qualified, at a reasonable cost, for use during the course of the contract period;

(ii[B]) Identifies any bearings that are not domestically manufactured, their application, and source of supply; and

(iii[c]) Describes, including cost and timetable, the transition to a domestically manufactured bearing. (The timetable for the transition should normally take no longer than 24 months from the date the waiver is granted); and

(4[iv]) The contracting officer accepts the plan and incorporates it in the contract.

[(b)] The Secretary of the department responsible for the acquisition may waive the restriction in 225.7019-1(b) on a case-by-case basis, by certifying to the House and Senate Committees on Appropriations that—

(1) Adequate domestic supplies are not available to meet **DoD requirements** on a timely basis; and

(2) **The acquisition must be made in order to acquire capability for national security purposes.**

225.7019-4 **Contract clause.**

Use the clause at **252.225-7016**, Restriction on Acquisition of ~~Antifriction~~**[Ball and Roller]** Bearings, in all solicitations and contracts, unless-

(a) ~~An exception applies.~~**[The restrictions in 225.7019-1 do not apply]** or a waiver has been granted; or

(b) **The contracting officer knows that the items being acquired** do not contain ~~antifriction~~**[ball or roller]** bearings. .

● ~~-----~~

252.225-7016 Restriction on Acquisition of ~~Antifriction~~**[Ball and Roller]** Bearings.

As prescribed in 22S.70194, use the following clause:

RESTRICTION ON ACQUISITION OF ~~ANTIFRICTION~~[BALL AND ROLLER]** BEARINGS
(~~NOV 1995~~**[MAR 1996]**)**

[(a) Definition.

“Bearing components,” as used in this clause, means the bearing element, retainer, inner race, or outer race.

(@) The Contractor agrees that all ~~antifriction~~**[ball and roller]** bearings and ~~antifriction~~**[ball and roller]** bearing components delivered under this contract, either as end items or components of end items, shall be wholly **manufactured in the United States or Canada. Unless otherwise specified, raw** materials, such as preformed bar, tube, or rod stock and lubricants, need not be mined or produced in the United States or Canada.

@[c]) The restriction in paragraph (a[b]) does not apply to the extent that the end items or components containing ~~antifriction~~**[ball or roller]** bearings **are commercial** items. The commercial item exception does not include items designed or developed under a Government contract or contracts where the end item is bearings and bearing components.

(e[d])**The restriction in paragraph (a[b]) may be waived upon request from the Contractor in** accordance with subsection 22S.7019-3 of the Defense Federal Acquisition Regulation Supplement.

(d[e])**The Contractor agrees** to retain records showing compliance with this restriction **until three** years after **final** payment and to make records available upon request of the Contracting Officer.

(e[f]) The Contractor agrees to insert this clause, including this paragraph (e[f]), in every subcontract and purchase order issued in performance of this contract, **unless items acquired [are—**

(1) **Commercial** items other than ball or roller bearings; or

(2) **Items that]** do not contain ~~antifriction~~**[ball or roller]** bearings.

(End of clause)